UNITED
NATIONS

A

General Assembly

Distr.
GENERAL

A/50/887
6 March 1996

ORIGINAL: ENGLISH

Fiftieth session
Agenda item 138 (a)

ADMINISTRATIVE AND BUDGETARY ASPECTS OF THE FINANCING OF THE UNITED NATIONS PEACE-KEEPING OPERATIONS: FINANCING OF THE UNITED NATIONS PEACE-KEEPING OPERATIONS

Reform of the procedure for determining reimbursement to Member States for contingent-owned equipment

Report of the Advisory Committee on Administrative and Budgetary Questions

1. The Advisory Committee on Administrative and Budgetary Questions has considered the report of the Secretary-General (A/50/807) on the reform of the procedure for determining reimbursement to Member States for contingent-owned equipment. During its consideration of the report, the Advisory Committee had before it the reports of the Phases II and III Working Groups on Reimbursement of Contingent-Owned Equipment (A/C.5/49/66, annex, dated 2 May 1995 and A/C.5/49/70, annex, dated 20 July 1995). The Advisory Committee met with representatives of the Secretary-General and also had the benefit of an exchange of views with some members of the Working Groups.

2. The Advisory Committee recalls that the General Assembly, in its resolution 49/233 A of 23 December 1994, in addition to endorsing the observations and recommendations of the Advisory Committee in its report on the procedures relating to the reimbursement for contingent-owned equipment (A/49/664), authorized the Secretary-General to proceed with the project outlined in the annex to the resolution, which aimed at setting comprehensive standards for each category of equipment, as well as establishing standard rates of reimbursement.

3. As indicated in the summary of the Secretary-General's report under consideration (A/50/807), the two Working Groups, made up of technical and financial experts from Member States, met with Secretariat representatives during the period from March to August 1995. Paragraphs 1 to 9 of the Secretary-General's report provide further information in this regard. The Working Groups' recommendations are contained in the two reports cited above.

96-05544 (E) 110396 140396

/...

Where the Secretary-General has accepted the recommendations of the Working Groups, the Advisory Committee recommends that the General Assembly approve the proposals of the Secretary-General.

4. The Advisory Committee was provided with a summary in tabular form (see the annex to the present report) listing the recommendations of the Working Groups as reflected in the annexes to documents A/C.5/49/66 and A/C.5/49/70, as well as the recommendations of the Secretary-General as reflected in his report.

5. As can be seen from the annex to the present report, the Secretary-General accepted the recommendations of the Working Groups on such issues as leasing and self-sustainment concepts, preparation of equipment upon deployment and redeployment, standards for major equipment as well as for self-sustainment, deployment of ammunition and adoption of a revised model services agreement, as well as on most sub-issues regarding transportation of equipment. However, at the time of preparation of the Secretary-General's report, differences existed on issues such as inland transportation, liability of the United Nations under the lease system, loss or damage of equipment and "mission factors" such as environmental and operational conditions impacting on equipment life and maintenance costs.

6. In this connection the Advisory Committee held extensive discussions with the representatives of the Secretary-General as well as with the members of the Working Groups who appeared before the Advisory Committee. While these members appeared before the Advisory Committee in their personal capacities and were not delegated by the Working Groups as representatives, they were able to provide the Advisory Committee with their opinions and explanations on technical issues.

7. With regard to the issue of inland transportation of equipment, the Advisory Committee noted the comments of the Phase III Working Group (A/C.5/49/70, annex, para. 31) and those of the Secretary-General (A/50/807, paras. 25 and 55 (a)). The Advisory Committee requested and received clarification from the representatives of the Secretary-General, who informed the Advisory Committee that it was recognized that troop-contributing countries incurred certain incremental expenses for inland transportation of major equipment to points of embarkation. However, according to the Secretary-General, reimbursement on the basis of full costs for inland transportation would cause difficulties to the United Nations with respect to claims verification and validation. The current practice of the United Nations has been not to reimburse such costs; hence, the Secretary-General's report maintained non-reimbursement for inland transportation under the new arrangements for contingent-owned equipment.

8. The Advisory Committee discussed this matter with members of the Working Groups and representatives of the Secretary-General. In this connection, the Advisory Committee recalled that there was agreement in the Phase III Working Group that the United Nations should provide reimbursement for the cost of inland transportation to the national port or ports of embarkation. Such an arrangement would ensure equity among compact and widely dispersed countries, whatever their economic circumstances (see A/C.5/49/70, annex, paras. 31 and 46 (d)). No statement of financial implications was provided by the Secretary-General in his report even though this was requested by the Working Group.

There is therefore no basis for the Secretary-General to conclude that "the proposal has the potential to add substantial costs to the annual budgets of peace-keeping missions" (see A/50/807, para. 25). The Advisory Committee also inquired into the meaning of the phrase "not normally reimbursed" in paragraph 25 of the report of the Secretary-General; it was informed of two instances when the United Nations had provided such reimbursement.

9. After discussions in the Advisory Committee, representatives of the Secretary-General later communicated to the Advisory Committee the view that a possible solution might be based on the principles recommended for transportation of contingent-owned equipment (A/C.5/49/70, annex, para. 46 (c)) from a port of embarkation to the mission area. Thus, according to information received from the Secretariat, the compensation to troop-contributing countries for expenses incurred for inland transportation of major equipment beyond the first 800 kilometres along the consignment route from the home location of the equipment to the point of embarkation would be a one-time payment of an amount equal to 0.25 per cent of the monthly wet lease rates for major equipment for each additional complete 800 kilometres. The Advisory Committee points out, however, that this formulation does not appear to reflect the concept of "equity among compact and widely dispersed countries, whatever their economic circumstances" (see para. 8 above).

10. In paragraphs 8 and 9 above, the Advisory Committee has made reference to the various points of view expressed both in the Working Groups and by the Secretary-General with regard to the question of reimbursement for inland transportation. The Advisory Committee has also pointed out several of its concerns with regard to the adequacy of the justification presented by the Secretary-General and the scope of applicability of these proposals. The General Assembly may wish to take these into account when it considers the recommendations of the Phase III Working Group as contained in paragraph 46 of the annex to document A/C.5/49/70.

11. The Advisory Committee requested clarification of the recommendation contained in paragraph 47 (d) of the annex to document A/C.5/49/70 concerning the assumption by the United Nations of total responsibility for loss or damage under the lease system. In this connection, the Advisory Committee notes the view of the Secretary-General as expressed in the summary of his report that "reimbursement would be based on the procedures currently in use for reimbursement of monthly troop costs, which take account of the Organization's financial and cash flow situation" and that "acceptance by the General Assembly of these concepts should not result in additional costs to peace-keeping mission budgets". Specific views of the Secretary-General with regard to loss or damage are in paragraphs 31 and 55 (c) of his report (A/50/807). It was stated that the question of liability related mainly to the United Nations not being able to perform its obligations under the lease system, and that it was not the intention of the Working Group to make the United Nations assume full liability for loss or damage due solely to its inability to pay the monthly reimbursement on a timely basis. The Advisory Committee was informed that the amendment clause in the draft contribution agreement (A/C.5/49/70, annex, appendix IV, art. 10) would offer the opportunity to both parties to amend the original agreement to reflect the changing situation. Furthermore, the draft agreement provides in article 11 a forum for either party to resort to the mechanism for

the settlement of disputes. Consequently, the representatives of the Secretary-General informed the Advisory Committee that it was felt that paragraph 47 (d) of the annex to document A/C.5/49/70 could be amended to reflect the recourse mechanism as follows: "In the event that the United Nations or the troop-contributing country does not meet its full obligations under the lease system, either party may refer the matter to the mechanism for settlement of disputes set out in article 11 of the contribution agreement set out in appendix IV to the report." The Advisory Committee recommends acceptance of this understanding.

12. The Advisory Committee sought clarification on the issue of loss or damage to major equipment due to hostile action or forced abandonment as discussed in paragraphs 33-36 and 55 (b) of the Secretary-General's report (A/50/807). The Advisory Committee notes that the Secretary-General agrees with the Working Group recommendation that the United Nations reimburse troop-contributing countries for loss or damage of equipment valued at or above $250,000. However, the Secretary-General does not agree with the recommendation for reimbursement of equipment whose collective value is equal or exceeds $250,000. As indicated in paragraph 34 of his report, the Secretary-General is of the view that "this proposal exposes the United Nations to extensive financial liability". This statement, however, could not be substantiated since it was not based on any empirical data. It was pointed out by members of the Working Groups that losses in peace-keeping operations were largely a result of accidents rather than hostile action.

13. Discussions in the Advisory Committee lead it to recommend that consideration should be given to the recognition of potential risk of aggregate loss for equipment whose individual value was less than $250,000 by including in the lease rates an additional factor to compensate Member States for potential loss or damage as a result of hostile action or forced abandonment. The Advisory Committee recommends that the Secretary-General be requested to make proposals (after appropriate consultations with Member States) on the percentage to be used as a risk factor. The Advisory Committee is of the view that this outstanding issue should not be considered an impediment to the adoption of the proposed system as presented by the Working Groups and the Secretariat subject to the recommendations of the Advisory Committee as accepted by the General Assembly.

14. With regard to the issue of establishment of an environmental and operational factor, the Working Groups' recommendations have been reflected in paragraphs 47 to 49 of document A/50/807, while the Secretary-General's views have been reflected in paragraph 50 of the same report. The Advisory Committee agrees with the Secretary-General's view and recommends acceptance of his proposal as outlined in paragraph 55 (d) of his report.

15. The Advisory Committee points out that to commence implementation of the new system for reimbursement for contingent-owned equipment it is essential that a service/contribution agreement be completed as a matter of utmost priority. The issue of a revised model services agreement, which has been summarized in paragraph 28 of the Secretary-General's report (A/50/807), had initially been outlined in paragraphs 54 and 61 of the annex to document A/C.5/49/66. As indicated in the latter document, the Secretariat, in consultation with Member

States, would prepare a revision to the 1991 Model Services Agreement, limited to administrative, logistic and financial matters (items for inclusion in the agreement are indicated in para. 43 of the document). As indicated in paragraph 28 of the annex to document A/C.5/49/70, the Phase III Working Group reaffirmed the conditions contained in paragraph 61 of the annex to document A/C.5/49/66, and stressed the importance of an implementation instrument that could take the form of a contribution agreement between the United Nations and the troop-contributing country (see A/C.5/49/70, annex, appendix IV, which contains the draft contribution agreement).

16. The Advisory Committee notes from paragraph 28 (of the annex to document A/C.5/49/70) that the Phase III Working Group expected that the draft agreement would accompany the report on contingent-owned equipment to be submitted to the General Assembly. The Advisory Committee regrets that the draft agreement has not yet been made available for scrutiny by the Advisory Committee and, on inquiry, the Advisory Committee was informed that the draft text of the revised model services/contribution agreement had been sent to Member States for comments, that replies had been received and the final draft was being reviewed by the Office of Legal Affairs. The Advisory Committee expects that the final text will be made available to it for review as early as possible before implementation. The Agreement should be accompanied by a full text of the implementation procedures, the agreed text of performance standards as well as rates of reimbursement for the contingent-owned equipment together with the agreed text of all definitions.

17. With regard to the dates for implementation, the General Assembly, in the annex to its resolution 49/233 A, envisaged phase IV of the project as "implementation of revised budgeting practices incorporating new reimbursement rates for contingent-owned equipment in budgets prepared after 1 August 1995 and development of automated systems to process claims for reimbursement". As indicated in paragraph 55 of the annex to document A/C.5/49/66, 1 January 1996 is the recommended date for the implementation of the proposed methodology "for existing and all future missions". However, as indicated in the annex to document A/C.5/49/70 a revised timetable of 1 July 1996 has been recommended by the Phase III Working Group.

18. The Advisory Committee notes from paragraph 53 of the Secretary-General's report that "on the assumption that the General Assembly approves the proposals, the Secretary-General will develop policies and procedures while allowing time for briefing Member States and peace-keeping missions. It is intended that this new arrangement will be implemented on 1 July 1996."

19. The Advisory Committee held extensive discussions with the representatives of the Secretary-General regarding implementation of the new procedures beginning 1 July 1996. The Advisory Committee was particularly concerned about transitional measures before full implementation can be accomplished and trusts that the Secretariat will undertake, as a matter of urgency, measures to create the capacity within the United Nations for a smooth transition period as well as for the effective implementation of the new procedures. For this purpose the Advisory Committee expects that establishment of data systems and training programmes for personnel involved in such areas as verification and inspection of equipment in each peace-keeping mission will be completed as a matter of

priority in time for implementation of new procedures for contingent-owned equipment. The Advisory Committee is of the view that as many existing peace-keeping operations as possible should be converted to the new procedures as soon as possible.

20. The Advisory Committee was informed that the Secretary-General intends to proceed with the implementation date of 1 July 1996 for the new arrangements for contingent-owned equipment, along the following lines: (a) the new reimbursement arrangement would be applied to all new missions as soon as procedural arrangements are in place; (b) the dry lease system may be introduced for existing missions subject to validation of requirements; (c) the wet lease system for existing missions would require reconfiguration of the support functions; (d) the Secretariat would finalize the verification and control procedures in preparation for conversion to the new system by 1 July 1996; (e) the Secretariat would identify and train appropriate staff both at Headquarters and in the field to administer the new arrangements; and (f) the draft contributions agreement would be issued to Member States by the end of March 1996 in order to ensure adequate time for consideration and implementation.

21. The Advisory Committee notes that the General Assembly, in the annex to its resolution 49/233 A, envisaged that phase V of the reform plan would "involve a periodic review and update of the phase II and phase III standards to be completed on a triennial basis with the first review scheduled for March 1998". The Advisory Committee also notes from paragraph 40 of the Phase III Working Group's report (A/C.5/49/70, annex) that "revisions to the procedures and rates would undoubtedly be required. Such revisions should be considered, after an initial period of validation, on a biennial basis."

22. The Advisory Committee requested clarification with regard to the discrepancy between the review periods mentioned in General Assembly resolution 49/233 A and the Phase III Working Group's report as well as the purpose and objectives of the review. The Advisory Committee believes that too frequent an evaluation and review of rates for contingent-owned equipment would not be beneficial to both sides since this may result in a constant change in rates, which could possibly cause considerable confusion in accounting and billing procedures. Thus, the Advisory Committee trusts that after the initial review scheduled for 1998, the question of the frequency of the review would be re-examined.

23. The Advisory Committee was informed that the Phase III Working Group's intent of a review at the end of the first biennium was to provide follow-up for the purpose of "fine tuning" the new system. With regard to the objectives of the review, the Advisory Committee was informed that the review procedures would embody the notion that: (a) new configurations or technological developments might be added to the current listing of major equipment items; (b) all Member States would be invited to provide input on review procedures (including rates); (c) the Secretary-General would be responsible to convene and compile the Working Group's recommendations; and (d) the Secretary-General would develop and maintain a database on current contingent-owned equipment leased equipment for the Working Group's review.

24. The Advisory Committee notes paragraph 51 of the Secretary-General's report on the question of letters of assist. The Committee was informed that with the introduction of the concept of the "wet lease", the need for letters of assist would be greatly reduced. The Advisory Committee intends to deal with this issue in the context of its consideration of the Secretary-General's report on procurement matters.

25. The Advisory Committee notes the Secretary-General's view as indicated in the summary of his report (A/50/807) that he "supports the leasing and self-sustainment concepts" and believes that "they would provide flexibility both to troop-contributing countries and the United Nations ... Troop-contributing countries would become responsible for asset management" and, in his view, "the proposal is also expected to reduce the bureaucratic process by eliminating the current lengthy survey procedures ... While there is expectation that some savings are likely to accrue, it is not possible to indicate what they might be in the absence of actual implementing experience." The Advisory Committee requests the Secretary-General to monitor this situation and report the impact of these changes on staff and other resources both at Headquarters and in the field.

ANNEX

Reform of the procedure for determining reimbursement to Member States for contingent-owned equipment

Issue	Working groups' recommendations (A/C.5/49/66 and A/C.5/49/70)	Secretariat recommendations (A/50/807)
1. Leasing concept	Recommendation of a leasing concept providing for a priori agreement on content and capabilities of military units, and replacing current survey procedure and reimbursement method based on depreciation. Reimbursement to troop-contributing countries for usage of equipment made on a monthly basis, either the "wet" or "dry" lease basis, depending on whether the equipment is maintained by the troop-contributing countries or the United Nations.	Recommends approval of the leasing concept and associated rates.
2. Self-sustainment concept	Recommendation for reimbursement of minor equipment, spare parts and consumables not associated with major equipment to be made on a troop strength basis.	Recommends approval of the self-sustainment concept and associated rates.
3. Preparation of equipment upon deployment and redeployment	Recommendation for reimbursement of preparation costs, such as painting or repainting of national colours, United Nations marking etc.	Recommends approval of reimbursement on presentation of a claim based on the authorized equipment list contained in the contribution agreement.

/...

Issue	Working groups' recommendations (A/C.5/49/66 and A/C.5/49/70)	Secretariat recommendations (A/50/807)
4. Transportation to and from the mission area	Recommend that current practice whereby the United Nations is responsible for transportation costs upon deployment and redeployment be retained.	Recommends approval.
	Recommend that the party making the transportation arrangements (United Nations, or troop-contributing country when requested by the United Nations) be responsible for loss or damage during shipment.	Recommends approval.
	Recommend that resupply of spare parts, consumables and minor equipment become the responsibility of troop-contributing countries, which are compensated by adding a factor of 2 per cent to the maintenance component of the wet lease and to the self-sustainment rates. Also recommend that this factor of 2 per cent be increased by .25 per cent for each completed 500 miles after the first 500 miles along the consignment route between the port of embarkation and the port of entry to the mission area.	Recommends approval.
	Recommend that troop-contributing countries be responsible for equipment rotation to meet national requirements at no additional cost to the Organization.	Recommends approval.
	Recommend reimbursement of actual costs associated with inland transportation.	Does not recommend approval.
	Recommend the identification of one or more ports of embarkation/disembarkation to facilitate transportation arrangements upon deployment and redeployment.	Recommends approval.

Issue	Working groups' recommendations (A/C.5/49/66 and A/C.5/49/70)	Secretariat recommendations (A/50/807)
5. Ammunition	Recommend that troop-contributing countries be responsible to deploy ammunition with an expected useful life in excess of anticipated length of deployment.	Recommends approval.
	Recommend that the United Nations reimburse actual cost of ammunition spent on the authority of the force commander, but that ammunition spent for calibration purpose not be reimbursed, and indicate that normal training ammunition continue to be reimbursed under current arrangements at the rate of $5 per month per soldier.	Recommends approval as it will result in standardization of procedures and conditions under which reimbursement would be authorized.
6. Model service agreement - contribution agreement	Recommend the adoption of a revised model agreement replacing the 1991 Model Services Agreement and the current reimbursement procedures based on the submission of surveys.	Recommends approval.
7. Loss or damage	Loss or damage owing to "no-fault" event. Recommend that reimbursement rates for usage of equipment and self-sustainment include a percentage varying between 0.1 per cent and 1 per cent to cover such loss or damage, with no further claims to be submitted.	Recommends approval provided the percentages are reasonable and fixed.
	Recommend that "in the event the United Nations does not meet its full liability under the leasing concept, total responsibility revert to the United Nations".	Not recommended.
	Loss or damage to minor equipment, spare parts and consumables owing to "hostile action" or "forced abandonment". Recommend the reimbursement rates for self-sustainment and the spare element of the wet lease be adjusted by a factor not to exceed 5 per cent as determined by the reconnaissance team at the beginning of the mission.	Recommends approval provided that such percentages are reasonable and fixed for each mission.

Issue	Working groups' recommendations (A/C.5/49/66 and A/C.5/49/70)	Secretariat recommendations (A/50/807)
	Loss or damage to major equipment owing to "hostile action" or "forced abandonment". Recommend that the United Nations reimburse troop-contributing countries in respect for loss or damage of equipment valued at or above $250,000 and for equipment whose collective value is equal to or exceeds $250,000.	Recommends that any compensable category of equipment be limited to major equipment valued at or above $250,000 and exclude items of a lesser value, which could collectively reach or exceed $250,000 only if fixed and reasonable limits per peace-keeping operations and per troop-contributing country were established. Further recommends that definitions of "hostile action" be amended to omit the term "of short or sustained duration" and "forced abandonment" omit the reference to abandonment resulting from "a provision in the rules of engagement which results in the loss of custody and control of equipment and supplies".
	Loss or damage owing to negligence or wilful misconduct of military or civilian personnel of troop-contributing country. Recommend that the Member States be responsible.	Recommends approval of this proposal.

Issue	Working groups' recommendations (A/C.5/49/66 and A/C.5/49/70)	Secretariat recommendations (A/50/807)
	Loss or damage to "special equipment". Recommend that the proposed arrangement not apply to special equipment, but that the terms be agreed upon separately.	Recommends approval and further recommends that such arrangements should be the basis of existing modalities developed by the Secretariat for equipment of a military nature for which it is unlikely that insurance can be obtained.
8. Standards for major equipment	Recommend standards for major equipment and its associated minor equipment and supplies to ensure that the troop-contributing country meet its obligations under the agreement.	Recommends approval.
9. Standards for self-sustainment	Recommend standards designed to replace existing reimbursement and survey procedures covering a wide range of equipment and services whereby a troop-contributing country is responsible to sustain its contingent without any United Nations support.	Recommends approval.
10. Mission factors	Recommend the establishment of environmental and operational factors to recognize extreme conditions in mission areas to be determined by technical survey team at the beginning of the mission. Each factor not to exceed 5 per cent to be added to the lease element for major equipment and to self-sustainment rates.	Recommends that these two factors be combined into one not to exceed 5 per cent.
11. Letters of Assist	Recommend an increase in the level of authority from $70,000 to $100,000.	The Secretariat is reviewing the proposal, taking into account the specific requirement and operating conditions of each individual mission.